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HOUSE BILL 565 By  
Black

SENATE BILL 1035  
By Ramsey

AN ACT to amend Tennessee Code Annotated, Title 50 and Title 20, relative to authorizing an employer to petition for a temporary restraining order and injunction prohibiting certain violent actions or threats of actions at the workplace or during hours of employment of an employee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 20, is amended by adding Sections 2 through 9 as a new part.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose including following or stalking an employee to or from the employee's place of work; entering the workplace of an employee; following an employee during hours of employment; telephone calls to an employee; and correspondence with an employee including, but not limited to, the use of the public or private mails, interoffice mail, facsimile, or computer e-mail.

(2) "Credible threat of violence" means a knowing and willful statement or course of conduct which would cause a reasonable person to believe that he or she is under

threat of death or serious bodily injury, and which is intended to, and which actually causes, a person to believe that he or she is under threat of death or serious bodily injury.

(3) "Employer" means any person or entity that employs one (1) or more employees and shall include the State of Tennessee and its political subdivisions and instrumentalities.

(4) "Unlawful violence" means assault, aggravated assault, or stalking, as prohibited by Tennessee Code Annotated, Sections 39-13-101, 39-13-102, and 39-17-315, but shall not include lawful acts of self-defense or defense of others.

SECTION 3. Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual, which can reasonably be construed to have been carried out at the employee's workplace, may seek a temporary restraining order and an injunction on behalf of the employer prohibiting further unlawful violence or threats of violence by that individual at the employee's workplace or while the employee is acting within the course and scope of employment with the employer. Nothing in this act shall be construed as authorizing a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are protected by the Constitution of this state or the United States.

SECTION 4. (a) Except for proceedings involving a nonresident respondent, the court of competent jurisdiction of the county where the unlawful violence or credible threat of violence occurred shall have jurisdiction over all proceedings under this act.

(b) For proceedings under this act involving a nonresident respondent, the court of competent jurisdiction where the petitioner's workplace is located shall have jurisdiction, where the act involving unlawful violence or a credible threat of unlawful violence meets the elements for personal jurisdiction provided for under §20-2-223 (a)(3) or (4).

SECTION 5. Upon filing a petition with the court for an injunction pursuant to this act, the petitioner may obtain a temporary restraining order if the petitioner also files an affidavit

which, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent and that great or irreparable harm will result to an employee if such an injunction is not granted. The affidavit shall further show that the petitioner has conducted a reasonable investigation into the underlying facts which are the subject of the petition. A temporary restraining order granted under this act shall remain in effect, at the court's discretion, for a period not to exceed fifteen (15) days, unless otherwise modified or terminated by the court.

SECTION 6. Within ten (10) days of filing of the petition under this act or as soon as practical thereafter, but in no case later than thirty (30) days after the filing of the petition, a hearing shall be held on the petition for the injunction. In the event a hearing cannot be scheduled within the county where the case is pending within the thirty (30) day period, it shall be scheduled and heard as soon as possible. The respondent may file a response which explains, excuses, justifies, or denies the alleged unlawful violence or credible threat of violence or may file a cross-complaint under this act. At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. If the judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence at the employee's workplace or while the employee is acting within the course and scope of employment with the employer. An injunction issued pursuant to this act shall have a duration of not more than three (3) years. At any time within the three (3) months before the expiration of the injunction, the petitioner may apply for a renewal of the injunction by filing a new petition for an injunction pursuant to this act.

SECTION 7. Upon the filing of a petition for an injunction under the provisions of this act, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing on the petition.

SECTION 8. The court shall order the petitioner or the attorney for the petitioner to deliver a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this act, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the petitioner. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

SECTION 9. Nothing in this act shall be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons. Nothing in this act shall be construed to prohibit an employer or employee from pursuing any other civil or criminal remedy provided by law.

SECTION 10. This act shall take effect July 1, 2001, the public welfare requiring it.